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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,650	03/04/2002	Barry Bond	MS1-779US	6104

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EXAMINER

NGUYEN, CINDY

ART UNIT PAPER NUMBER

2161

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/090,650

Applicant(s)

BOND ET AL.

Examiner

Cindy Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/11/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,10-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

This is in response to communication filed 10/11/06.

***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Regarding claims 1, 3-8, 10-15 and 19-23, a computer-readable medium carrying one or more sequences of Instructions for executing transactions is recited in the claim.

"Computer-readable medium" as defined in the specification (0138, 0140, 0141) communication media includes wired media such as a wired network or direct wired connection and wireless media such as acoustic, RF, infrared and other wireless media. A signal encoded with functional descriptive material does not fall within any of the categories of patentable subject matter. Therefore, claims 13-25 are not statutory (As set forth in § 101, a claimed signal is clearly not a process under § 101 because it is not a series of steps. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result, and does not fit within the definition of a machine. A claimed signal is not matter, but a form or energy, and therefore is not a composition of matter or product).

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16 and 18--23 are rejected under 35 U.S.C. 102(e) as being anticipated by Price (US 6739932).

Regarding claims 16, 19 and 20, all the limitations of these claims have been noted in the rejection of claim 1. Price discloses: a method, a computer-readable medium having computer executable instructions that when executed by a computer for facilitating loading to one or more executable images a varying formats, the method comprising: locating an executable image on a computer media (col. 6, lines 58-59, Price);

investigating information related to the executable image, thereby identifying the format of the executable image, wherein during the investigating an extensible database of executable-image formats is accessed (matching and verification process in fig. 4 and col. 9, line 1 to col. 10, lines 11, Price).

based upon the identified format of the image, initiating a loader associated with the identified format (col. 6, lines 66 to col. 7, lines 57, Price); with that loader, loading the executable image into a computer memory (col. 6, lines 58-59, Price).

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Regarding claim 18, all the limitations of this claim have been noted in the rejection of claim 16 above. In addition, Price discloses: wherein headers of the image contains the information related to the executable image for the investigating (col. 8, lines 12-22, Price).

Regarding claims 21 and 23, Price discloses: a computer-readable medium having modularized computer-executable modularized sets of instructions and an operating system comprising a medium that, when executed by the computer perform a method comprising: loading one or more executable images into a computer memory (col. 6, lines 58-59, Price); such an image having one or more formats defined by an extensible database of executable image formats (col. 7, lines 40-46, Price); executing the one or more executable images that are loaded into the computer memory (col. 5, lines 38-55, and matching and verification process in fig. 4 and col. 9, line 1 to col. 10, lines 11, Price)

Regarding claim 22, all the limitations of this claim have been noted in the rejection of claim 21 above. In addition Price discloses: wherein the modularized sets of instructions are isolated with clean interfaces (col5, lines 58 to col. 6, lines 3, Price).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodrov (US 6802006) in view of Price (US 6739932).

Regarding claim 1, Bodrov discloses: A computer-readable medium having computer-executable modules comprising:

- a file locator configured to locate an executable image on a computer media (col. 4, lines 34-42, Bodrov);

- a memory-mapper configured to open the executable image from the computer media and read it into a computer memory (col. 208, fig. 2 and corresponding text, Bodrov);

- an importer configured to find a list of executable image names to load (col. 4, lines 61 to col. 5, lines 5, Bodrov);

- a binder configured to link multiple executable images together, such images being those of the list of executable image names ((col. 4, lines 15-28, Bodrov);

- an exporter configured to build a representation of program modules that an executable image exports (col. 5, lines 15-18, Bodrov);

Bodrov is silent to discloses: a file-format recognizer configured to recognize the file format of the executable image from amongst a database file format definition, wherein the database is extensible so that addition file format definitions may be added

to the database of multiple file format definitions. On the other hand, Price discloses: a database of multiple file format definitions a file-format recognizer configured to recognize the file format of the executable image from amongst a database file format definition (matching and verification process in fig. 4 and col. 9, line 1 to col. 10, lines 11, Price). Wherein the database is extensible so that additional file format definitions may be added to the database of multiple file format definitions as (col. 5, lines 56-61, col. 6, lines 58-59, and col. 7, lines 40-46, Price). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include a database of multiple file formats in the system of Bodrov as taught by Price. The motivation being to provide the identification system to configure to process memory images from the computer system to determine the size in bytes of executable in the memory image, and provided for identifying software executing on a computer system from a memory image that defines at a particular time a state of the executing software

Regarding claim 3, all the limitations of this claim have been noted in the rejection of claim 1 above. In addition, Bodrov/ Price discloses: wherein the importer is further configured to direct the loading of multiple executable images of the list of executable image names to load (col. 4, lines 15-28, Bodrov).

Regarding claim 4, all the limitations of this claim have been noted in the rejection of claim 1 above. In addition, Bodrov/ Price discloses: wherein the file-format recognizer is further configured to select one or more of a group of available pluggable

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sub-loaders is capable of loading the recognized file format of the executable image (col. 3, lines 58-67, Bodrov).

As per claims 5, 6 and 7, all the limitations of these claims have been noted in the rejection of claim 1. It is therefore rejected as set forth above.

Regarding claim 8, all the limitations of these claims have been noted in the rejection of claim 1. In addition, Bodrov/ Price discloses: A computer-readable medium having computer-executable modules comprising: a searcher configured to search a computer media for an executable image for loading (col. 7, lines 12-50, Bodrov);

a format recognizer configured to the format of the executable image (col. 4, lines 43-60, Bodrov);

a memory-mapper configured to load and map the executable image into memory based upon the format of the executable image (col. 208, fig. 2 and corresponding text, Bodrov);

a sub-loader configured to examine a data structure of the executable image to determine whether to load additional images (204 and corresponding text and col. 3m, lines 58-67, Bodrov);

Regarding claim 10, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Price discloses: wherein one or more modules of the medium are configured to be replaced with a replacement module without recompilation of one or more modules (col. 7, lines 40-58, Price).



Regarding claim 11, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Price discloses: wherein the memory-mapper is further configured to convert the executable image before mapping it into the memory (col. 6, lines 1-9, Bodrov).

Regarding claim 12, all the limitations of this claim have been noted in the rejection of claim 8 above. In addition, Bodrov/ Price discloses: wherein the memory-mapper is further configured to decrypt the executable image before mapping it into the memory (col. 4, lines 15-28, Bodrov).

As per claims 13, 14 and 15, all the limitations of these claims have been noted in the rejection of claim 8. It is therefore rejected as set forth above.

#### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gaffin Jeffrey can be reached on 571-272-4160. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Cindy Nguyen

December 2, 2006



**JEFFREY GAFFIN**  
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